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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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IN THE MATTER OF:

WT DOCKET NO. 95-26

Commercial Realty St. Pete, Inc.,
James C. Hartley, Teresa Hartley,
and Ralph E. Howe

DATE OF HEARING: September 13, 1995 VOLUME: 3

PLACE OF HEARING: Washington, D.C. PAGES: 43 - 48

FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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In the matter of:

Commercial Realty St. Pete, Inc.

James C. Hartley, Teresa Hartley,

and Ralph E. Howe

) Docket No. 95-26

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The above-entitled matter came on for hearing pursuant to Notice before Arthur I. Steinberg, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom No.3, on Wednesday, September 13, at 9:30 a.m.

APPEARANCES:

On behalf of Commercial Realty St. Pete, Inc.:

LAUREN A. COLBY, ESQUIRE
 10 East 4th Street
 Frederick, Maryland 21701

On behalf of the Wireless Telecommunications Bureau:

JOSEPH PAUL WEBER, ESQUIRE
 TERRENCE E. REIDELER, ESQUIRE
 1919 M Street, NW
 Washington, D.C. 20554

Hearing began: 9:34 a.m.

Hearing Ended: 9:45 a.m.

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P R O C E E D I N G S

1 JUDGE STEINBERG: We're back on the record. During
2 the recess, let me ask Mr. Weber, have you had a chance to
3 talk to the people at the Bureau about the settlement
4 agreement?
5

6 MR. WEBER: Yes, I have, Your Honor.

7 JUDGE STEINBERG: And why don't you give us a brief
8 report, and then you can -- yeah, I guess you can summarize
9 what went on, because stuff went on before we went on the
10 record, so why don't you just summarize that?

11 MR. WEBER: Well, as I stated before we went on the
12 record, the Bureau was for the most part satisfied with the
13 outline we came up with yesterday. However, was not
14 necessarily completely satisfied with the idea that
15 Mr. Hartley could re-apply for licenses within a five-year
16 period of time. They wanted it to be a flat ten-year ban from
17 applying for FCC licenses or attending auctions. And because
18 the Bureau was going to ask for that concession and was
19 willing to forego in seeking any type of voluntary
20 contribution for Mr. or Mrs. Hartley or Commercial Realty, so
21 we're going to ask for a flat ten-year ban and not ask for the
22 \$10,000 voluntary contribution.

23 JUDGE STEINBERG: Okay, and Mr. Colby, Mr. Hartley
24 has agreed to that. Is that correct?

25 MR. COLBY: That's correct, we credited a

1 draft agreement of settlement, and in the discussion prior to
2 going on the record we discussed some editorial changes to the
3 draft agreement of settlement and I understand the Bureau will
4 also be going over the agreement of settlement making other
5 editorial changes and I guess hopefully we'll be able to
6 finalize the document by the end of the day today.

7 JUDGE STEINBERG: Now, what I'm going to do --
8 again, I commend all of you for agreeing to do this. I have a
9 draft -- Mr. Colby gave me a draft of the settlement agreement
10 and I think it's just an excellent resolution to this, for
11 lack of a better term, this situation. I think it serves
12 Mr. Hartley well and I think it serves the government well.
13 And I think hopefully neither of you are 100-percent happy
14 with it, and -- but I'm not going to ask you.

15 Here's what I'm going to do. What I'll do is I'll
16 give you 30 days to file the papers with the Commission. If
17 you want to file them tomorrow that's fine, but I'll set a
18 date by which the papers have to be filed. And actually it's
19 29 days because 30 days would be like Friday the 13th and I
20 don't think we want to be filing stuff on Friday the 13th.
21 So, I'm superstitious too. So, why don't we make the filing
22 of the finalized settlement and the joint request due on
23 Thursday, October 12th and -- but of course there's nothing to
24 prevent you from filing them today or tomorrow if you want.
25 Any problem with that?

1 MR. WEBER: No, Your Honor.

2 MR. COLBY: No, Your Honor.

3 JUDGE STEINBERG: And as I said yesterday, I don't
4 know if it was on the record or off the record, that I'll be
5 out of town next week in Detroit on a hearing and I'll be
6 back, you know, whenever that next Monday is, the 25th. If
7 something is ready for me to rule on, I'll rule on it that
8 week and maybe we can beat the train wreck if there is a train
9 wreck. But, you know, if you make the effort I'll make the
10 effort.

11 MR. COLBY: With that amount of time we should be
12 able to use wet signatures and not have to use any dry
13 signatures and I suggest that we do that, that we use wet
14 signatures. By that I mean signatures actually executed by
15 pen or other such device as opposed to facsimilies of
16 signatures.

17 JUDGE STEINBERG: Doesn't matter to me.

18 MR. COLBY: With that amount of time should --

19 JUDGE STEINBERG: You know, whatever. Just depends
20 on, you know, like if you want this to be approved real
21 quickly then you have to do things real quickly, because I
22 know Mrs. Hartley isn't here.

23 MR. COLBY: If we can get something down and turned
24 back, one day down and one day back --

25 JUDGE STEINBERG: I see. Okay.

1 MR. COLBY: In a real big hurry like we are in the
2 old five-day rule then I would normally receive a dry
3 signature, I would have signed something by fax and turned it
4 back by fax.

5 JUDGE STEINBERG: Well, in the agreement there's
6 something about -- isn't it about that the joint request will
7 be filed within five days or something?

8 MR. COLBY: Yeah, because that's the five-day rule.
9 The rule says five days.

10 JUDGE STEINBERG: But that's -- isn't that 73.3525 -
11 - that's in a broadcast case involving competing applications?

12 MR. COLBY: Well, that's true, that's true and, and
13 arguably that rule would not apply here. So, I think we need
14 to change that to say the joint motion will be filed on or
15 before --

16 JUDGE STEINBERG: You can all tweak that later.
17 Yeah, I mean that's up to you guys. I mean, frankly I don't
18 really care about that portion of it except that, you know,
19 I'd like it to be a joint, a joint motion. And if you want to
20 attach to it or distribute to me like a draft of an order that
21 -- because I know when Mr. Peck was here we were talking about
22 language, language in an order that would accomplish the
23 purposes that everybody wanted to accomplish and I just -- you
24 know, if you want to decide between the parties what should be
25 in an order and just give me an outline of that and if -- you

1 know, if I can live with it it'll be there. Because --

2 MR. COLBY: I thought about this quite a bit last
3 night.

4 JUDGE STEINBERG: We should go off the record for
5 this, I mean, because this is really thinking, not, you
6 know --

7 (Whereupon, off the record.)

8 (Whereupon, on the record.)

9 JUDGE STEINBERG: We're back on the record, and I
10 don't think there's anything more for us to do this morning.
11 And as I said, I won't issue an order. We'll let the
12 transcript speak for the date and -- you know, the date for
13 filing the papers. And again, I want to thank you and I
14 appreciate that you settled the case and I think it's a good
15 deal all around. So, with that we -- I guess there's no
16 record to close so we'll just go off the record I guess.
17 Thank you.

18 (Whereupon, the hearing concluded at 9:45 a.m., on
19 September 13, 1995.)

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CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

Commercial Realty

Name

WT 95-26

Docket No.

Washington, DC

Place

September 13, 1995

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 43 through 48, inclusive, are the true, accurate and complete transcript prepared from the reporting by Barbara Lord in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

9/26/95

Date

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James H. Lowell, Transcriber
Free State Reporting, Inc.

9/26/95

Date

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Debbie Serio, Proofreader
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9/26/95

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